

IDAHO Supreme Court

JUDICIAL/ADMINISTRATIVE NEWS

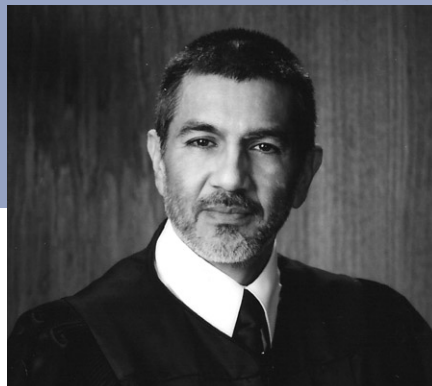
JUNE 2008



*Idaho Supreme Court
Justice Joel Horton*



Justice Warren Jones



Court of Appeals Judge Sergio Gutierrez

Horton Re-Elected to the Supreme Court

Idaho Supreme Court Justice Joel Horton was re-elected to the state's highest court, defeating District Court Judge John Bradbury in the May 2008 Primary.

Justice Warren Jones and Court of Appeals Judge Sergio Gutierrez were also re-elected, with neither facing a challenger.

Applications Accepted For New Appeals Court Judge

The Idaho Judicial Council is now accepting applications for a new position, a fourth judge, on the Idaho Court of Appeals. Senate Bill 1270 passed earlier this year, amended section 1-2404 of the Idaho Code, to create a position for a fourth judge of the Court of Appeals.

Completed applications must be received by the Judicial Council no later than 5:00 p.m., Wednesday, July 9, 2008. The Council is currently planning to meet in September 2008 for interviews and selection of the nominees. The slate of nominees will be forwarded to Governor Otter for his appointment. The new appointee will join the Court on Monday, January 5, 2009.





Please note: The Clerks Manual is online at:
http://www.isc.idaho.gov/links/clerkman/clerkman_cov.htm
While the Clerks Manual is being revised, its availability online is a great step forward! If you have comments, suggestions for the Clerk of the District Court Manual, please contact:
Janica Bisharat jbisharat@idcourts.net or (208) 947-7417

Interim Tax Panel Appointed

House Concurrent Resolution 45 established an interim committee whose purpose is to study the property tax system, including whether some of the expenditures of property tax revenues might more reasonably be covered from other revenue sources, and to make recommendations to provide property tax relief while furthering "the improved administration of the state's criminal justice, juvenile justice and court systems."

Membership:

Sen. Brad Little, Co-chair
Rep. Jim Clark, Co-chair
Sen. Tim Corder
Rep. Scott Bedke
Sen. Lee Heinrich
Rep. Lynn Luker
Sen. Jim Hammond
Rep. Raúl Labrador
Sen. Jeff Siddoway
Rep. Frank Henderson
Sen. David Langhorst
Rep. Bill Killen
Sen. Elliot Werk
Rep. George Saylor
Staff: Eric Milstead, Mike Nugent, Charmi Arregui

Senator Little indicated he has five priorities for the interim panel, which he outlined in a recent email to the author:

1. Do no harm.
2. Create a better understanding of how our judiciary is funded.
3. Explore increased efficiencies.
4. Address deficiencies in some municipalities.
5. Listen.

Data Repository Now Complete

As of May 27, 2008, Ada County's criminal, civil and juvenile data is displayed in the repository along with that of the other 43 counties on the Judiciary's website: <http://www.isc.idaho.gov>

Updated Benchguide Released

A new update of the Idaho Benchguide is now available to all judges and court personnel via county computer servers. A Premise CD (with the latest release [May 2008] of the Benchguide) was sent to each elected Clerk of the District Court for installation.

If you had previously requested a personal copy of the Benchguide CD from Judicial Education, Judge Castleton, or Kim Woods, you should automatically receive the new version on CD. If you need additional disks please contact the Administrative Assistant for Education, Kim Woods at kwoods@idcourts.net or (208) 947-7417.

This may very well be the last CD distribution of the Benchguide. A West/Thomson Knowledge Management system is being installed. The Benchguide will probably be one of the first "publications" transferred to the new system.

The entire Benchguide is being revised and rewritten. Judge Lowell Castleton is acting as the Executive Editor for the process, and Judge Michael Redman as the Managing Editor. Many members of the judiciary and the bar, as well as the academic community, are already at work revising the Benchguide to make it current and always up to date. Several of the first installments of the "new" Benchguide are included in the current CD release.

While many assignments for revised and new sections have already been made, all users are encouraged to either suggest topics for inclusion and/or volunteer their services in providing materials.

If you have comments, suggestions or problems with the Benchguide, please contact:

Judge Lowell Castleton lcastleton@idcourts.net or (208) 947-7417
or
Judge Michael Redman rmredman@cableone.net or (208) 734-6311



New Orders & Rule Changes

For Current New Orders or Rule Changes, go to: <http://www.isc.idaho.gov/rulesamd.htm>



IN RE: FOURTH JUDICIAL DISTRICT LOCAL RULES AMENDMENT 05/08



Judge Riddoch: Leadership and Innovation

Magistrate Judge Mark Riddoch has some advice for new judges, "Be prepared, be civil, be timely, be thorough and be ethical. Always try to set a good example and put your own family first in your life."

Having served for twenty-five years, Judge Riddoch has seen a number of significant improvements to the courts including a streamlining of court rules and procedures that has helped reduce lengthy trials and has improved the focus on key issues in trials.

Judge Riddoch, a Bonneville County Magistrate Judge in the 7th Judicial District, is particularly satisfied with the progress of mediation, which he is convinced has helped keep children out of courtrooms and resolved custody and visitation issues in a more amicable forum.

"Our Focus on the Children class with the outstanding video 'Listen to the Children' has taught parents about the effects of divorce and custody litigation on their children and inspired parents to act more responsibly for the welfare of their kids," the Judge said.

He is quick to credit others with the measurable success of the mediation program, and says that the emphasis on specialty courts such as Family Drug Court and Domestic Violence Court has helped dozens of families, "My support team is terrific, including my clerk, our Family and Court Services Administrator, our Court Domestic Violence Coordinator, our Trial Court Administrator, County Misdemeanor Probation Officers, other court clerks and our County Commissioners."

Over the years, Judge Riddoch has seen many new attorneys step into their roles eager to learn. His advice to them is "to learn from the masters who have honed their skills through hard fought trials and sound settlements."

Judge Riddoch's legal career is widely seen as embodying a legacy of judicial leadership and innovation. The legacy comes through in the Judge's own personal goals:

*"to be fully informed of the law and facts of each case,
to be fair, objective and respectful of parties and counsel,
and render my best decision as quickly as possible."*



Healthy employees are one of the keys to a productive and cost effective workplace. In support of that effort, the Division of Professional-Technical Education is announcing **Health Matters**, the new statewide Idaho State Employee Wellness resource.

Please take time to visit Health Matters at:
<http://www.healthmatters.idaho.gov>





Paul Laggis, Judge Peter McDermott

Investiture Ceremony for Judge Laggis Held

New Power County Magistrate Judge Paul S. Laggis was formally installed in his new position on June 13. Sixth District Administrative District Judge Peter D. McDermott and Trial Court Administrator Suzanne Johnson orchestrated the formal investiture ceremony. Judge Laggis replaces Magistrate Judge Mark A. Beebe who served Power County for 23 years.

Judge Laggis' family — wife Paula, son Kody, daughter Zoie, and the Judge's mother Marilyn — helped him don his robe. Myriad other well wishers, friends, community leaders, attorneys and judges listened as Judge McDermott administered the oath of office and addressed the crowd. Stratton Laggis, father of the new Magistrate Judge, and Marc Beitia, a friend, also offered remarks.



Kody and Zoie Laggis assist with robing



Paul Laggis, Father Stratton Laggis, Judge Peter McDermott

Latah County Applicants for Magistrate Judge

The Magistrates Commission of the 2nd Judicial District has received applications from the following 12 attorneys for the vacancy that will be created when Latah County Magistrate Judge William Hamlett retires on September 30.

- ⚖ Charles B. Bauer
Attorney in private practice, Boise
- ⚖ Rebekah A. Cudé
Deputy Attorney General, Boise
- ⚖ Richard S. Christensen
Attorney in private practice, St. Maries
- ⚖ Sandra K. Dickerson
Nez Perce County Deputy Prosecutor, Lewiston
- ⚖ Jennifer A. Ewers
Attorney in private practice, Moscow
- ⚖ Roderick R. Hall
Moscow City Prosecutor, Moscow
- ⚖ John C. Judge
Attorney in private practice, Moscow
- ⚖ Catherine M. Mabbutt
Attorney in private practice, Registered Nurse, Adjunct Professor at UI College of Law, Latah County Coroner, Moscow
- ⚖ Mark S. Moorer
Attorney in private practice, Moscow
- ⚖ Brian D. Thie
Attorney in private practice, Moscow
- ⚖ William W. Thompson, Jr.
Latah County Prosecutor, Moscow
- ⚖ Mia M. Vowels
Nez Perce County Deputy Prosecutor, Lewiston



Philip Robinson

Children and Families Institute a Success

The Supreme Court sponsored the 2008 Children and Families multi-disciplinary Institute on May 19 & 20. With over 250 in attendance – including Magistrate Judges, Trial Court Administrators, Prosecutors, Public Defenders, Deputy Attorney Generals, CASA/GAL Executive Directors, Family Service Coordinators, Health and Welfare, and attorneys – the conference was well attended and very well received by all. Several nationally recognized speakers as well as Idaho's own local experts provided a wealth of experience and knowledge with a focus on achieving better outcomes for children and families in child protection, domestic violence, domestic relations, juvenile justice and other cases involving children and families.

The Child Protection Committee was pleased to honor this year's recipient of the CAP Award, which was presented to Sandpoint attorney, Philip Robinson.



Mark your calendars — next year's Institute will be held on May 11, 2009.

Magistrate Judges Institute Well Attended

The Annual Magistrate Judge's Institute was held May 21 – 23, 2008. With nearly 100% attendance, the conference was well received with glowing evaluations. It was a wonderful opportunity for learning for our experienced judiciary as well as our newest members of the bench, who were attending their first Magistrate Judges Institute: Idaho County Magistrate Judge Jeff Payne, Twin Falls County Magistrate Judge Tom Kershaw, Owyhee County Magistrate Judge Dan Grober, Ada County Magistrate Judge Daniel Steckel, Jefferson County Magistrate Judge Robert Crowley, Cassia County Magistrate Judge Mick Hodges, Kootenai County Magistrate Judge James Stow, Power County Magistrate Judge Paul Laggis, and Ada County Magistrate Judge Monty Berecz.



After hours!

TCA Workshop Held

Trial court executives from Idaho and Utah met in St. George, Utah June 9-11 for the 2008 Utah/Idaho Trial Court Executive Workshop. The workshop, a joint effort of the Idaho and Utah judiciaries, covered research methods, design, analysis, evaluation and reporting; all information critical to conducting and understanding evaluations of court programs and processes.

The workshop identified best practices in research methodology and was pertinent to those conducting research, as well as those who utilize the data reported from research projects.





Order Issued On Ex Parte Communications

The Supreme Court issued an *Order addressing the subject of ex parte communications with judges presiding over drug courts*. This has been a topic of interest since the Judicial Council issued an opinion stating that a judge may attend a drug court staffing only if all parties are represented at the staffing.

The Supreme Court's Order states that:

- ⚖ Administrative district judges, trial court administrators and judges presiding over drug courts shall strive to obtain the presence of counsel for all parties at drug court staffings and proceedings;
- ⚖ A judge presiding over a drug court may initiate, permit or consider ex parte communications with members of the drug court team at drug court staffings or appearances, but not at arraignments, plea hearings, motions to expel, admit-deny hearings, evidentiary hearings on expulsion motions, expulsions, or sentencings/dispositions;
- ⚖ At these staffings and appearances, defense counsel and prosecutors may communicate ex parte with the court where the defendant, defense counsel and counsel for the State have consented to such communications. This order provides the authorization for such ex parte communications under the provisions of Canon 3B(7)(3) of the Idaho Code of Judicial Conduct and Rule 3.5 of the Idaho Rules of Professional Conduct.

The authorization of these ex parte communications is to be in effect only for 90 days, except upon further order of the Supreme Court. The Court, as stated in the Order, will continue to seek recommendations with regard to this and other issues affecting

problem-solving courts, and will consider any proposed amendments to its rules, as well as proposed amendments or comments to the Code of Judicial Conduct and the Rules of Professional Responsibility.

The efforts of judges, prosecutors, defense counsel, trial court administrators, the Judicial Council, Bar Counsel, the members of the Drug Court and Mental Health Court Coordinating Committee, and others in providing advice and guidance on this matter are deeply appreciated. The Court will consider the views of all interested parties as it strives to insure the success of our problem-solving courts, along with adherence to the highest standards of judicial integrity and protection of the rights of all parties.

DWI Training Initiative Announced

The National Center for DWI Courts has announced the DWI Court Training Initiative Application for calendar year 2009. The DWI Court Training is for those entities interested in forming a DWI Court program in a local jurisdiction. The application is specific as to the two types of training offered, the Planning (3.5 Days) or the Enhancement (1 Day). The Planning session is for new DWI courts being started. The Enhancement is for drug courts considering a DWI track.

The teams that have been selected for the training will be notified in the fall of 2008 so that the dates can be added to court calendars and travel arrangements can be made. The training sessions are slated to begin in April 2009.



If you are interested, contact Norma Jaeger at (208) 947-7427 or njaeger@idahocourt.net for further instructions.



IN RE: FORMATION AND MEMBERSHIP OF THE FELONY SENTENCING COMMITTEE (signed on May 20, 2008)

The Court appointed a new Felony Sentencing Committee, to be chaired by Judge Michael McLaughlin.

IN RE: MEMBERSHIP - CRIMINAL RULES ADVISORY COMMITTEE

ORDER IN RE: MEMBERSHIP OF THE CRIMINAL RULES ADVISORY COMMITTEE (signed May 22, 2008)

IN RE: MEMBERSHIP - CHILD SUPPORT GUIDELINES ADVISORY COMMITTEE

IN RE: MEMBERSHIP - MISDEMEANOR INFRACTION RULES ADVISORY COMMITTEE

IN RE: MEMBERSHIP OF THE GUARDIANSHIP AND CONSERVATORSHIP COMMITTEE



Evidentiary Refusal Suspension Advisory Form

This question comes up periodically: *When is the defendant officially "advised" that he/she will have a \$250.00 civil penalty to be assessed upon refusal to submit to evidentiary testing for DUI?*

This is an attempt to clarify this matter for the clerks and judges who have inquired.

If the defendant refuses the test:

On the Notice Of Suspension Advisory Form that the officer hands the defendant at the time of refusal, section 4.A explains that they "are subject to a civil penalty of two hundred and fifty dollars (\$250.00)." This is also referenced on the back of the form.

As you will note this penalty is **not for conviction of the DUI**, but is **the civil penalty for refusal** to take the test.

When the clerk receives the paper work indicating refusal, the clerk needs to enter the civil penalty of \$250.00 with a money due date set 30 days from the date of the refusal.

If this penalty is set aside by the court for any reason, the clerk would at that point adjust off the \$250.00 due.

The defendant has the right to request a hearing of the court within 7 days of the offense.

If the defendant does not request the hearing, the driver's license **will** be suspended for 1 year if it is the 1st refusal and 2 years if it is the 2nd refusal within 10 years. The clerk needs to prepare the order of suspension as found in the ISTARS documents for the judge's signature, and then send that order to ITD.

ITD has stated that it would be extremely helpful if the clerk were to **attach a copy of the DUI Citation/petition and send it along with the suspension order.** Please do this whenever possible.

If the defendant fails the test:

The defendant will be issued the suspension paperwork by the officer as explained in section 5. Further the **defendant may request an administrative hearing before ITD** as explained in the advisory paperwork.

Please share this information with the others interested in your court. Thanks for all of the GREAT work that you do!



JUDICIAL/ADMINISTRATIVE NEWS
is published by the Idaho Supreme Court.

Chief Justice Daniel T. Eismann
Justice Roger S. Burdick
Justice Jim Jones
Justice Warren E. Jones
Justice Joel Horton

We are very interested in your news and information. If you have or are aware of items that should be featured in a future edition of Judicial/Administrative News please let us know!

News items may be submitted for publication to Patricia Tobias:

451 West State St.
Boise, ID 83702
Phone: 208-334-2246
FAX: 208-947-7590
E-mail: *ptobias@idcourts.net*

Thanks!



Note: For the most up-to-date Judicial Calendar,
check the Judiciary's homepage at
<http://www.isc.idaho.gov/calendar.htm>

